

# Notice of Allowability

Application No.

10/046,544

Examiner

Umamaheswari Ramachandran

Applicant(s)

BLEASE ET AL.

Art Unit

1617

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/31/2007.
2. ☒ The allowed claim(s) is/are 1-5 and 7-30.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. David M. Mott on Aug 8 2007.

The application has been amended as follows:

- 1) In claim 1, line 1, after "includes" **Delete** "an" and **Insert** -- one or more --
- 2) In claim 1, line 2, **Delete** "active compound" and **Insert** -- active compounds --
- 3) In claim 7, line 1, after "wherein the" **Insert** -- one or more --
- 4) In claim 7, line 2, **Delete** "active compound" and **Insert** -- active compounds --
- 5) In claim 8, line 1, after "wherein the" **Insert** -- one or more --
- 6) In claim 8, line 2, **Delete** "active compound" and **Insert** -- active compounds --
- 7) In claim 9, line 1, after "wherein the" **Insert** -- at least one --
- 8) In claim 13, line 2, after "wherein said" **Insert** -- one or more --
- 9) In claim 13, line 3, **Delete** "active compound" and **Insert** -- active compounds --
- 10) In claim 14, line 2, after "wherein said" **Insert** -- one or more --
- 11) In claim 14, line 3, **Delete** "active compound" and **Insert** -- active compounds --
- 12) In claim 18, line 1, after "includes" **Delete** "an" and **Insert** -- one or more --

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- 13) In claim 18, line 2, **Delete** "active compound" and **Insert** -- active compounds --
- 14) In claim 21, line 1, after "wherein the" **Insert** -- one or more --
- 15) In claim 21, line 2, **Delete** "active compound" and **Insert** -- active compounds --
- 16) In claim 22, line 1, after "wherein the" **Insert** -- one or more --
- 17) In claim 22, line 2, **Delete** "active compound" and **Insert** -- active compounds --
- 18) In claim 23, line 1, after "wherein the" **Insert** -- at least one --
- 19) In claim 25, line 2, after "said" **Insert** -- one or more --
- 20) In claim 25, line 2, **Delete** "active compound" and **Insert** -- active compounds --
- 21) In claim 27, line 2, after "said" **Insert** -- one or more --
- 22) In claim 27, line 2, **Delete** "active compound" and **Insert** -- active compounds --
- 23) In claim 29, line 1, after "wherein said" **Insert** -- at least one --
- 24) In claim 30, line 1, after "includes" **Delete** "an" and **Insert** -- one or more --
- 25) In claim 30, line 2, **Delete** "active compound" and **Insert** -- active compounds --

## **DETAILED ACTION**

### **Application Priority**

This application is a CON of PCT/GB00/02670, 07/12/2000) and the claim for foreign priority (GB 9916581.3, 16 July 1999) is acknowledged.

### **REASONS FOR ALLOWANCE**

Applicants' arguments regarding the rejection of claims 1-3, 7-9, 12-13 and 29 under U.S.C. 103(a) as obvious over Brinker (WO 96/32839) in view of Ulsperger (DE 1220438 is found to be persuasive and hence the rejection is withdrawn. The objection to claims 4-6 and 14 is withdrawn as Applicants' have amended claims 4, 5 and 14 and canceled claim 6. The obviousness double patenting rejection of claims 1-10, 12-29 over the co-pending application (10/504,126) is withdrawn as the instant application has an earlier filing date and priority date. Claim 30 has been added new. Claims 10, 11, 15-28 are free of prior art and are ready for allowance. An examiners amendment has been made as follows: Claims 1, 7-9, 13, 14, 18, 21-23, 25, 27, 29 and 30 are amended, and claim 6 is canceled. Claims 1-5, 7-30 are renumbered.

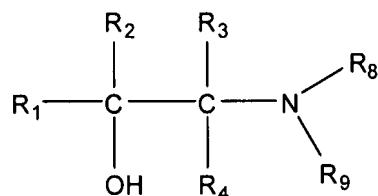
The following is an examiner's statement of reasons for allowance:

The claims 10, 11, 15-17 are drawn to compounds of formula IIa, IIb, and IIIe. The compounds are free of prior art. The claims 1-5, 7-9, 18-25, 27, 29, 30 are directed to an agrochemical composition which includes one or more of an

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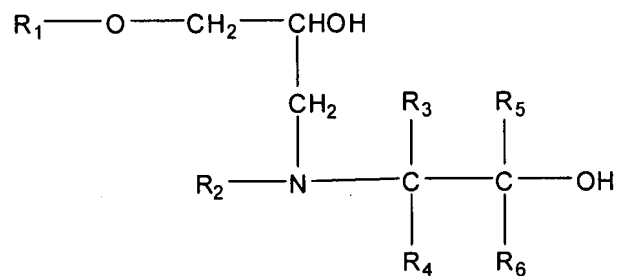
agrochemically active compound and a compound of formula (I) or (IIIe). The closest prior art of record to compound of formula I are (1) David et al. (U.S. 5,594,150), (2) Ohasi et al. (U.S. 5, 552, 445), (3) Ulsperger (DE 1220438) and (4) Brinker et al. (WO 96/32839).

David et al. (U.S. 5,594,150) teach preparation and composition of a hydroxylated secondary or tertiary amine compound



having a hydroxyl function beta to the amine function. However, the reference does not teach an agrochemical composition comprising one or more agrochemically active compounds such as glyphosate with a compound of formula I. Therefore, there is no anticipation or motivation of making such a composition from the teaching or suggestion from prior art.

Ohasi et al. (U.S. 5, 552, 445) teach a composition for external skin care comprising in an effective amount for reducing wrinkles and/or improving keratinization of the skin at least one amine derivative of the following formula:



However, the reference does not teach an agrochemical composition comprising one or more agrochemically active compounds such as glyphosate with a compound of formula I. Therefore, there is no anticipation or motivation of making such a composition from the teaching or suggestion from prior art.

Brinker et al. teaches an herbicidal composition comprising glyphosate and etheramine surfactant. . The reference does not teach the surfactant compound of formula (I). Though the reference teaches that the efficacy of glyphosate can significantly be enhanced by the addition of one or more surfactants in the composition there is no motivation in Ulsperger or in the prior art cited above to combine the surfactant compound of formula (I) with glyphosate.

Ulsperger (DE 1220438) teach a surface-active agent compounds of formula (I). The reference further teaches that polyhydroxyalkyl amines are capable of strongly reducing the surface tension of the aqueous solutions in small concentrations. However, the reference does not teach an agrochemical composition comprising one or more agrochemically active compounds such as glyphosate with a compound of formula I. Therefore, there is no anticipation or motivation of making such a composition from the teaching or suggestion from prior art.

The claims 12, 13, 14, 26, 28 are directed to a method of treating, killing plant pests, inhibiting vegetation by applying the agrochemical composition of the present invention to plants and/or soil. The compounds of formula IIa, IIb, and IIIe

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are free of prior art and the agrochemical composition comprising formula I and IIIe are free of prior art. Hence the method claims are allowable.

The claims are allowable over the closest art of record because they do not teach, disclose nor make obvious the claimed compounds of formula IIa, IIb, and IIIe and the agrochemical composition comprising one or more agrochemically active compounds and compound of formula I, and IIIe and the method of treating, killing plant pests, inhibiting vegetation by applying the agrochemical composition comprising one or more agrochemically active compounds and compound of formula I, and IIIe.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Umamaheswari Ramachandran whose telephone number is 571-272-9926. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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